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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/425,271	10/21/1999	VASILIOS TOUTOUNTZIS	T257.312-000	9323

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EXAMINER

CANFIELD, ROBERT

ART UNIT PAPER NUMBER

3635

DATE MAILED: 09/09/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/425,271

Applicant(s)

TOUTOUNTZIS, VASILIOS

Examiner

Robert J Canfield

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 2 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 April 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☒ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20, 25, 29, 32, 62 and 64-98 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-20, 25, 29, 32, 62 and 64-98 is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☒ Claim(s) 1-20 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☒ Certified copies of the priority documents have been received in Application No. 825299.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

1. This Office action is in response to the 04/13/04 amendment.
2. The drawings filed 04/13/04 are accepted.
3. Upon further consideration the amendment to the claims filed 03/03/04 has been deemed improper. The amendment fails to comply with 37 CFR 1.173. Applicant has used strikethrough " ----" rather than bracketing "[]" to indicated deleted subject matter from the original patented claims. Applicant has also used double bracketing "[[]]" . Both are improper in Reissue amendment practice. The amendment of claims 21-98 appears to be in proper form. The examiner has reproduced below for applicant's convenience a proper amendment to original patent claims 1-20 . Applicant should proofread to make sure the claims are amended as applicant intended and then resubmit amended claims 1-20 (be sure to use appropriate status identifiers) along with the previously submitted amended claims 21-98.

Claim 1. A termite barrier which is substantially resistant to termite chewing and corrosion the termite barrier comprising; a mesh sheet formed of a material [resistant to breakdown in the environment of use and] substantially resistant to termite secretions, said material having a hardness of not less than about Shore D70 for resistance to termite chewing, the mesh sheet having pores, wherein the pores are open to permit fluid flow therethrough, the pores having a maximum opening dimension less than 3.25 millimeters [wherein each pore has a linear dimension in all directions less than the maximum linear dimension of the cross section of the head of the species of

termite to be controlled] ,the mesh sheet being positioned in relation to structure and ground underneath the structure to provide a termite barrier for the structure.

Claim 2. The termite barrier as claimed in claim 1, wherein the pores of the mesh sheet have a linear dimension in at least one direction[, less than the minimum lineal dimension of the cross section of the head of the species of termite to be controlled] of not more than 0.85mm.

Claim 3. The termite barrier as claimed in claim 1, wherein the pores of the mesh sheet are polygonal with the maximum diagonal dimension less than [the maximum linear dimension of the cross section of the head of the species of termite to be controlled] 3.25mm.

Claim 4. The termite barrier as claimed in claim 1, wherein the pores of the mesh sheet are rectangular in shape.

Claim 5 . The termite barrier as claimed in claim 4, wherein the rectangular pores each have a diagonal dimension less than 0.85 mm.

Claim 6. The termite barrier as claimed in claim 4, wherein the rectangular pores are dimensioned 0.40 mm by 0.70 [min] mm.

Claim 7. The termite barrier as claimed in claim 1, wherein the mesh sheet is made of a corrosion resistant grade of stainless steel.

Claim 8 . The termite barrier as claimed in claim 1, wherein the mesh sheet is bonded to or embedded in a moisture impervious sheet.

Claim 9. In combination with a building structure erected on a ground level concrete slab, a termite barrier which is substantially resistant to termite chewing and corrosion, the termite barrier comprising:

a mesh sheet made of a material substantially resistant to termite

secretions and having a hardness of not less than about Shore D70 for resistance to termite chewing, the mesh sheet having pores [wherein each pore has a linear dimension in all directions less than the maximum linear dimension of the cross-section of a head of a species of termite to be controlled], the pores having a maximum opening dimension of less than 3.25mm, the termite barrier being positioned beneath an underside of the slab and extending to a perimeter of the slab in all directions and upwardly about the perimeter of the slab to a distance above the slab and above the ground level adjacent thereto.

Claim 10. The [combinations] combination as claimed in claim 9, further comprising a member projecting through the termite barrier and the slab, and a termite barrier sleeve integral with the termite barrier located beneath the slab and clamped in pressure engagement therewith about the perimeter of the member.

Claim 11. The combination as claimed in claim 10, wherein the sleeve is formed by cutting an opening in the termite barrier, said opening having a perimeter less than the perimeter of the member and stretching and deflecting the marginal area of termite barrier about the opening to form the sleeve.

Claim 12. A cable having a core of conductive member or members, and a protective covering surrounding the core, said covering including a termite barrier which is substantially resistant to termite chewing and corrosion, said termite barrier surrounding said core and comprising a mesh layer formed of a material substantially resistant to termite secretions and having a hardness of not less than about Shore D70 for resistance to termite chewing, the mesh sheet having pores wherein each pore has a linear dimension in all directions less than [the maximum linear dimension of the cross-section of a head of a species of termite to be controlled] 3.25mm.

Claim 13. In combination, a foundation structure for supporting a building, a termite barrier which is substantially resistant to termite chewing and corrosion for shielding the foundation structure to

protect the building from termite invasion, the termite barrier comprising a mesh sheet formed of a material resistant to termite secretions and having a hardness of not less than about Shore D70 for resistance to termite chewing, the mesh sheet having open pores permitting fluid flow therethrough, each open pore having maximum opening dimension of less than 3.25mm [wherein each pore has a linear dimension in all directions less than the maximum linear dimension of the cross-section of a head of a species of termite to be controlled], the termite barrier covering the foundation structure to protect the building supported thereon against termites.

Claim 14. In combination with a building structure erected on a ground level or near ground level concrete slab, and having a non integral termite resistant adjacent structure, a strip of termite barrier material which is substantially resistant to termite chewing or corrosion, the termite barrier material comprising; a mesh sheet made of a material substantially resistant to termite secretions and having a hardness of not less than about Shore D70 for resistance to termite chewing, [the mesh sheet having pores wherein each pore has a linear dimension in all directions less than the maximum linear dimension of the cross section of a head of a species of termite to be controlled,] the mesh sheet having open pores wherein each pore has a maximum opening dimension of less than 3.25 mm, said strip of termite barrier material having respective marginal edge portions along opposite longitudinal edges of the strip integrally secured to the slab and the adjacent structure to establish integrity of the connection between the slab and the adjacent structure against the passage of termites.

Claim 15. The combination as claimed in claim 14, wherein the adjacent structure is a further concrete structure.

Claim 16. The combination as claimed in claim 14, wherein the adjacent structure is composed substantially of a building material selected from the group consisting of brick, natural stone, rock, concrete block, steel and aluminum in block or sheet form.

Claim 17. The combination claimed in claim 14, wherein the slab and the adjacent structure are each [cat] cast in-situ concrete components, the respective marginal edge portions of the termite barrier strip being embedded into the slab and adjacent structure during the pouring of the concrete.

Claim 18. The combination claimed in claim 14, wherein the slab and adjacent structure are each preformed and the combination further comprises an adhesive resistant to attack by termites for bonding the marginal edge portions of the strip of termite barrier material to the slab and adjacent [structures] structure.

Claim 19. The combination claimed in claim 18, further comprising a mechanical fastener for additionally securing the respective marginal edge portions of the termite barrier strip at spaced intervals along the length thereof.

Claim 20. A post or column to be erected with an end portion thereof embedded in the ground, said end portion being enclosed in a protective sleeve closed at one end, said sleeve being made from a mesh sheet of a material substantially resistant to termite secretions and having a hardness of not less than about Shore D70 for resistance to termite chewing, the mesh sheet having pores wherein each pore has a maximum opening dimension less than 3.25mm [wherein each pore has a linear dimension in all directions less than the maximum linear dimension of the cross section of a head of a species of termite to be controlled].

4. Upon further consideration the substitute specification filed 03/03/04 has been deemed improper. Applicant's attempt to cut and paste changes into the cut up copy of the patent has resulted in copy marks, which appear as underlining. This apparent

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underlining will confuse the printer. Further, applicant has failed to complete the continuity information of the original patent at line 3 on column 1.

5. This application is in condition for allowance except for the following formal matters:

Applicant must resubmit the amendment of 03/03/04 using the proper amendment form as noted above for original patent claims 1-20 and resubmit a substitute specification which does not have copy marks which appear to be underlining and which completes the continuity information .

Prosecution on the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

A shortened statutory period for reply to this action is set to expire **TWO MONTHS** from the mailing date of this letter.


6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert J Canfield whose telephone number is 703-308-2482. The examiner can normally be reached on M-Th.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl Friedman can be reached on 703-308-0839. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Robert J Canfield
Primary Examiner
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A handwritten signature in black ink, appearing to read 'RJC', is written over the printed name of Robert J. Canfield.

08/31/04